

CLAIMS

Convention signed at Washington July 4, 1868

Senate advice and consent to ratification July 25, 1868

Ratified by Mexico December 26, 1868

Ratified by the President of the United States January 25, 1869

Ratifications exchanged at Washington February 1, 1869

Entered into force February 1, 1869

Proclaimed by the President of the United States February 1, 1869

Modified by conventions of April 19, 1871;¹ November 27, 1872;²

November 20, 1874;³ and April 29, 1876⁴

Terminated upon fulfillment of its terms⁵

15 Stat. 679; Treaty Series 212

Whereas it is desirable to maintain and increase the friendly feelings between the United States and the Mexican Republic, and so to strengthen the system and principles of Republican Government on the American Continent; and whereas since the signature of the Treaty of Guadalupe Hidalgo of the 2nd. of February 1848,⁶ claims and complaints have been made by citizens of the United States on account of injuries to their persons and their property by authorities of that Republic, and similar claims and complaints have been made on account of injuries to the persons and property of Mexican citizens by authorities of the United States, the President of the United States of America and the President of the Mexican Republic have resolved to conclude a Convention for the adjustment of the said claims and complaints and have named as their Plenipotentiaries:

The President of the United States, William H. Seward, Secretary of State;

And the President of the Mexican Republic, Matias Romero, accredited as Envoy Extraordinary and Minister Plenipotentiary of the Mexican Re-

¹ TS 214, *post*, p. 834.

² TS 215, *post*, p. 836.

³ TS 217, *post*, p. 838.

⁴ TS 218, *post*, p. 841.

⁵ The commissioners, having disposed of all claims submitted to them, held their last meeting Jan. 31, 1876. Decisions were rendered by the umpire on cases before him and he completed his work on Nov. 20, 1876 (see Moore, *International Arbitrations*, vol. II, p. 1287).

⁶ TS 207, *ante*, p. 791

public to the United States, who, after having communicated to each other their respective full powers, found in good and due form, have agreed to the following Articles.

ARTICLE I

All claims on the part of corporations, companies or private individuals, citizens of the United States, upon the government of the Mexican Republic, arising from injuries to their persons or property by authorities of the Mexican Republic, and all claims on the part of corporations, companies or private individuals, citizens of the Mexican Republic, upon the government of the United States, arising from injuries to their persons or property by authorities of the United States, which may have been presented to either government for its interposition with the other since the signature of the Treaty of Guadalupe Hidalgo between the United States and the Mexican Republic of the 2nd. of February, 1848, and which yet remain unsettled, as well as any other such claims which may be presented within the time hereinafter specified, shall be referred to two commissioners, one to be appointed by the President of the United States by and with the advice and consent of the Senate, and one by the President of the Mexican Republic. In case of the death, absence or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act as such, the President of the United States or the President of the Mexican Republic respectively shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The Commissioners so named, shall meet at Washington within six months after the exchange of the ratifications of this Convention, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to public law, justice and equity, without fear, favor or affection to their own country, upon all such claims above specified as shall be laid before them on the part of the Governments of the United States and of the Mexican Republic respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then name some third person to act as an umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person; and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be umpire in that particular case. The person or persons so to be chosen to be umpire, shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence or incapacity

of such person or persons or of his or their omitting or declining or ceasing to act as such umpire, another and different person shall be named as aforesaid to act as such umpire in the place of the person so originally named as aforesaid, and shall make and subscribe such declaration as aforesaid.

ARTICLE II

The commissioners shall then conjointly proceed to the investigation and decision of the claims which shall be presented to their notice in such order and in such manner as they may conjointly think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments in support of or in answer to any claim; and to hear, if required, one person on each side on behalf of each government on each and every separate claim. Should they fail to agree in opinion upon any individual claim, they shall call to their assistance the umpire whom they may have agreed to name or who may be determined by lot, as the case may be; and such umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid and consulted with the commissioners, shall decide thereupon finally and without appeal. The decision of the commissioners and of the umpire shall be given upon each claim in writing, shall designate whether any sum which may be allowed shall be payable in gold or in the currency of the United States, and shall be signed by them respectively. It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The President of the United States of America and the President of the Mexican Republic, hereby solemnly and sincerely engage to consider the decision of the commissioners conjointly or of the umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him respectively, and to give full effect to such decisions without any objection, evasion or delay whatsoever.

It is agreed that no claim arising out of a transaction of a date prior to the 2nd of February, 1848, shall be admissible under this Convention.

ARTICLE III

Every claim shall be presented to the Commissioners within eight months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners or of the umpire, in the event of the commissioners differing in opinion thereupon; and then

and in any such case, the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years and six months from the day of their first meeting.⁷ It shall be competent for the commissioners conjointly or for the umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred and laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

ARTICLE IV

When decisions shall have been made by the commissioners and the arbiter in every case which shall have been laid before them, the total amount awarded in all the cases decided in favor of the citizens of the one party shall be deducted from the total amount awarded to the citizens of the other party, and the balance to the amount of three hundred thousand dollars, shall be paid, at the City of Mexico or at the City of Washington, in gold or its equivalent within twelve months from the close of the commission to the government in favor of whose citizens the greater amount may have been awarded, without interest or any other deduction than that specified in Article VI of this Convention. The residue of the said balance shall be paid in annual instalments to an amount not exceeding three hundred thousand dollars in gold or its equivalent in any one year until the whole shall have been paid.

ARTICLE V

The High Contracting Parties agree to consider the result of the proceedings of this commission as a full, perfect and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred and thenceforth inadmissible.

ARTICLE VI

The commissioners and the umpire shall keep an accurate record and correct minutes of their proceedings with the dates. For that purpose they shall appoint two Secretaries versed in the language of both countries to assist them in the transaction of the business of the commission.

⁷ For extensions of term of commission, see conventions of Apr. 19, 1871 (TS 214) *post*, p. 834; Nov. 27, 1872 (TS 215) *post*, p. 836; Nov. 20, 1874 (TS 217) *post*, p. 838; and Apr. 29, 1876 (TS 218) *post*, p. 841.

Each government shall pay to its commissioner an amount of salary not exceeding forty five hundred dollars a year in the currency of the United States, which amount shall be the same for both governments.

The amount of compensation to be paid to the umpire shall be determined by mutual consent at the close of the commission, but necessary and reasonable advances may be made by each government upon the joint recommendation of the commission.

The salary of the Secretaries shall not exceed the sum of twenty-five hundred dollars a year in the currency of the United States.

The whole expenses of the commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commission; provided always that such deduction shall not exceed five per cent. on the sums so awarded.

The deficiency, if any, shall be defrayed in moieties by the two governments.

ARTICLE VII

The present Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the President of the Mexican Republic with the approbation of the Congress of that Republic, and the ratifications shall be exchanged at Washington within nine months from the date hereof, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington the fourth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

WILLIAM H. SEWARD [SEAL]

M. ROMERO [SEAL]